

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

J. PATRICK SCULLY	)	
	)	Civil Action No. 03-1852
	)	
Plaintiff,	)	
	)	
v.	)	JUDGE JOY FLOWERS CONTI
	)	
ALLEGHENY LUDLUM CORPORATION,	)	Magistrate Judge Caiazza
ALLEGHENY TECHNOLOGIES	)	
INCORPORATED, JOHN SCARFUTTI,	)	
AND DAVID MURPHY,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

On December 9, 2003 this case was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636 (b)(1)(A) and (B), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

On February 10, 2006, the magistrate judge issued a Report and Recommendation (Doc. 71) recommending that the District Court grant the Motions for Summary Judgment filed by Defendant Allegheny Ludlum (Doc. 41) and Defendants Scarfutti and Murphy (Doc. 43). Service of the Report and Recommendation was made on all parties, and the Plaintiff filed Objections (Doc. 72) on March 2, 2006.

In those Objections, the Plaintiff noted that on page 5 of the Report, the magistrate judge erroneously stated that a plaintiff, at the summary judgment stage of an ADEA claim, must

establish pretext by a "preponderance of the evidence." It is clear that the summary judgement standard was stated accurately elsewhere in the report, and that the magistrate judge applied the proper standard. Nonetheless, in the interest of accuracy, the first part of the sentence beginning the last full paragraph on page 5 of the report is amended to read: "In order to avoid summary judgment, the plaintiff must now point to evidence in the record showing that . . . ."

After a de novo review of the pleadings and documents in the case, together with the Report and Recommendation and the objections thereto, the following ORDER is entered:

AND NOW, this 23rd day of March, 2006, IT IS HEREBY ORDERED that the Motions for Summary Judgment filed by Defendant Allegheny Ludlum (Doc. 41) and Defendants Scarfutti and Murphy (Doc. 43) are granted.

The February 10, 2006 Report and Recommendation of Magistrate Judge Caiazza is hereby adopted, as amended, as the opinion of the court.

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Joy Flowers Conti  
U.S. District Judge

cc:  
Francis X. Caiazza  
U.S. Magistrate Judge

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